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**IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF ARIZONA**

MATHEW RUIZ, Individually,

Plaintiff,

v.

UNITED STATES OF AMERICA;
JEREMY KISER, Officer of the Department
of Homeland Security/Immigration and
Customs Enforcement,

Defendants.

NO:

COMPLAINT

For his claim against Defendants, Plaintiff Mathew Ruiz alleges as follows:

JURISDICTION AND VENUE

1. This action is brought pursuant to Federal Tort Claims Act ("FTCA"), 28 U.S.C. § 2671.
2. On September 1, 2016, Plaintiff submitted an Administrative Claim for the claim set forth below to the Department of Homeland Security/Immigration and Customs Enforcement ("DHS/ICE").
3. On July 11, 2017, DHS/ICE accepted the claim and tendered an offer for settlement. Plaintiff does not accept the offer presented and is properly filing this suit for recovery of damages in accordance with the FTCA.

1 **CAUSE OF ACTION**

2 **COUNT ONE: NEGLIGENCE**

3 15. Defendant Kiser negligently operated his vehicle when he failed to yield the
4 right-of-way to oncoming traffic and made a left-hand turn in front of Plaintiff's vehicle,
5 causing a violent collision.

6 16. Defendant Kiser's negligence is the proximate cause of Plaintiff's injuries and
7 damages alleged herein.

8 17. As a further direct and proximate cause of Defendant Kiser's negligence, and
9 each other Defendant named herein, Plaintiff sustained multiple severe physical and emotional
10 injuries which caused pain, suffering, distress, mental and emotional anguish and anxiety, and a
11 general impairment of the quality of life, some which may be permanent, all in an amount to be
12 proven at trial.

13 **COUNT TWO: NEGLIGENCE PER SE**

14 19. A.R.S. § 28-771 (A) is a statute enacted for the safety of motorists on the
15 roadway in Arizona.

16 20. Defendant Kiser violated A.R.S. § 28-771 (A) by failing to yield the right-of-
17 way when he made a left-hand turn in front of Plaintiff and is negligent per se.

18 **COUNT THREE: VICARIOUS LIABILITY**

19 21. At the time of the negligent act/conduct that injured Plaintiff, Defendant Kiser
20 was acting within the course and scope of his employment with DHS/ICE and the United
21 States of America. As such, Defendant Kiser's actions and conduct was imputable to
22 DHS/ICE and, in turn, the United States of America under the doctrine of respondeat superior.
23 Therefore, the United States of America is vicariously liable for Plaintiff's injuries.

24 As a proximate result of the negligence/acts and/or omissions of Defendant Jeremy
25 Kiser, and each other Defendant named herein, as stated in counts one, two, and three above,
26 Plaintiff sustained the following damages and injuries to be established by proof at trial:
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1 a. Severe bodily and other personal injuries which caused and will continue to cause
2 pain, suffering, distress, mental and emotional anguish and anxiety, and a general loss in the
3 enjoyment of life;

4 b. Expenses for medical care, past and future;

5 c. For interest accruing on all damages until paid.

6 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them,
7 jointly and severally, for the following:

8 (a) For Plaintiff's general and special damages;

9 (b) For Plaintiff's expenses incurred for past medical care and treatment of Plaintiff's
10 injuries and for future medical treatment and expenses;

11 (c) For Plaintiff Mathew Ruiz;

12 (d) For Plaintiff's costs incurred herein; together with interest at the highest legal rate
13 on all damages and costs from the time incurred on the date of such judgment, whichever is
14 sooner, until paid; and

15 (e) For such other and further relief as the Court deems just and proper.

16 Dated this ____ day of January, 2018.

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18 **LAW OFFICES OF**
19 **GIL NEGRETE, P.C.**

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21 By: _____
22 Michael Collins, Esq.
23 Attorneys for Plaintiff
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